(Spl.-H.C.A.S.,C.D.,78-e)

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF BOMBAY AT GOA
APPELLATE SIDE

CRIMINAL REVISION APPLICATION NO. 66 OF 2003.

Office Note, Office Memoranda of Quorum, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mrs. Sudha C.Pai Kir, Advocate for the Applicant.

CORAM : P.V. HARDAS, J.

DATE : 22ND JANUARY, 2004.

P.C.:

The applicant/original complainant being aggrieved by the Order of the Judicial Magistrate F.C. at Canacona, dated 8th October, 2003 in Criminal Case No.12/N/2003 has filed the present Criminal Revision Application.

2. It appears that the learned Magistrate, while stating the particulars of the offence to the respondent/accused, under Section 251 of the Code of Criminal Procedure, according to the applicant, did not record a plea of partial admission of the accused. The applicant avers that the accused

had admitted his liability in respect of Rs.20,000. The particulars of the offence however relate to the issuance of a cheque for Rs.50,000/- by the respondent/accused which had bounced. The plea of the accused which is recorded was that he pleaded not guilty.

3. The learned counsel appearing on behalf of the applicant has stated that as per Section 252 of Cr.P.C. the learned Magistrate should have recorded the plea of guilt of the accused in the words of the accused. In other words, it is submitted that the learned Magistrate should have, in fact, recorded a plea of guilt of the accused as the accused had admitted that he had borrowed Rs.20,000/- from the Applicant. Reliance for this proposition is placed on the judgment of the Division Bench of the Bombay High Court in the case of Emperor v. Abdul Hoosein

Shamsuddin, reported in 1903 Bombay Law Reporter, 999.

4. The submission of the learned counsel for the Applicant is not well founded inasmuch as firstly, because the learned Magistrate has recorded a plea of not guilty. Secondly, there was no admission of guilt by the respondent/accused. All that the respondent is alleged to have said is that he had borrowed Rs.20,000/- from the Applicant/complainant. In such circumstances, while recording the plea, the learned Magistrate has recorded the plea of not guilty. There can never be partial admission of the guilt and on such partial admission a plea of guilt cannot be recorded. The learned Magistrate has therefore declined to record the plea of guilt on partial admission by the respondent/accused.

5. I have given my anxious consideration to the submissions

advanced by the learned counsel and according to me there is no substance in the present Revision Application, apart from the fact that such a Criminal Revision Application, being against an interlocutory order, would not be maintainable.

6. Criminal Revision Application No.66/2003 is accordingly dismissed.

P.V. HARDAS, J.

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